
From: Xidis, Claire [cxidis@motleyrice.com]
Sent: Wednesday, August 27, 2008 10:34 AM
To: George, Robert; David Page; Baker, Fred; Ward, Liza; David Riggs; Richard Garren; Bob Nance; Kelly Burch; Daniel Lennington; Trevor.Hammons@oag.ok.gov; Louis Bullock; Bob Blakemore
Cc: Scott McDaniel; Jorgensen, Jay T.; Burns, Bryan; Mark_Quayle@cargill.com; James Graves; jgriffin@lathropgage.com; Gary Weeks; rredemann@pmrlaw.net; vbronson@cwlaw.com; bfreeman@cwlaw.com; Ehrich, Delmar R.; jelrod@cwlaw.com; rfunk@cwlaw.com; thill@rhodesokla.com; Jones, Tim; Bond, Michael R.; rsanders@youngwilliams.com; Terry@thewestlawfirm.com; jtucker@rhodesokla.com; vmorgan@cwlaw.com; lphillips@cwlaw.com; Sperrazza, Quynh C.; lwhite@rhodesokla.com; gbarber@rhodesokla.com; Lawrence Zeringue; pthompson@bassettlawfirm.com; Dolan, Christopher H.; Rockwood, Linda L.; Jones, Bruce; Nicole Longwell; Jinger Waller; Carney, Kristen Shults; jwisley@cwlaw.com; kkobbeman@cwlaw.com; Craig A. Mirkes; ljsoutherland@rhodesokla.com; Patrick Ryan; Philip Hixon; Kleibacker Lee, Krisann C.; wbassett@bassettlawfirm.com; Sherry Bartley
Subject: RE: Oklahoma v. Tyson -

Robert -

We will also gather Cox's email and correspondence.

E. Claire Xidis | Attorney at Law | Motley Rice LLC
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843.834.4747 | f. 843.216.9450

-----Original Message-----

From: George, Robert [mailto:Robert.George@tyson.com]
Sent: Tuesday, August 26, 2008 6:06 PM
To: Xidis, Claire; David Page; Baker, Fred; Ward, Liza; David Riggs; Richard Garren; Bob Nance; Kelly Burch; Daniel Lennington; Trevor.Hammons@oag.ok.gov; Louis Bullock; Bob Blakemore
Cc: Scott McDaniel; Jorgensen, Jay T.; Burns, Bryan; Mark_Quayle@cargill.com; James Graves; jgriffin@lathropgage.com; Gary Weeks; rredemann@pmrlaw.net; vbronson@cwlaw.com; bfreeman@cwlaw.com; dehrich@faegre.com; jelrod@cwlaw.com; rfunk@cwlaw.com; thill@rhodesokla.com; Jones, Tim; Bond, Michael R.; rsanders@youngwilliams.com; Terry@thewestlawfirm.com; jtucker@rhodesokla.com; vmorgan@cwlaw.com; lphillips@cwlaw.com; Sperrazza, Quynh C.; lwhite@rhodesokla.com; gbarber@rhodesokla.com; Lawrence Zeringue; pthompson@bassettlawfirm.com; Dolan, Christopher H.; lrockwood@faegre.com; Jones, Bruce; Nicole Longwell; Jinger Waller; kcarney@faegre.com; jwisley@cwlaw.com; kkobbeman@cwlaw.com; Craig A. Mirkes; ljsoutherland@rhodesokla.com; Patrick Ryan; Philip Hixon; kkleee@faegre.com; wbassett@bassettlawfirm.com; Sherry Bartley
Subject: RE: Oklahoma v. Tyson -

Claire,

May I assume that the production of "materials considered by Cox" will include all e mail and written correspondence sent or received by Dr. Cox as part of his work on this case?

With respect to the production of Dr. Cox's considered materials, please remember that Dr. Engel's deposition is currently set for September 17-18. If the State intends for Dr. Engel to sponsor or testify about the work and conclusions of Dr. Cox, then I will need Dr. Cox's considered materials well in advance of Engel's deposition. If the State now intends to try to call Dr. Cox as a testifying expert witness, please let us know so that we can determine how best to deal with that development.

Robert W. George
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e mail: robert.george@tyson.com

-----Original Message-----

From: Xidis, Claire [mailto:cxidis@motleyrice.com]
Sent: Tuesday, August 26, 2008 2:44 PM
To: George, Robert; David Page; Baker, Fred; Ward, Liza; David Riggs; Richard Garren; Bob Nance; Kelly Burch; Daniel Lennington; Trevor.Hammons@oag.ok.gov; Louis Bullock; Bob Blakemore
Cc: Scott McDaniel; Jorgensen, Jay T.; Burns, Bryan; Mark_Quayle@cargill.com; James Graves; jgriffin@lathropgage.com; Gary Weeks; rredemann@pmrlaw.net; vbronson@cwlaw.com; bfreeman@cwlaw.com; dehrich@faegre.com; jelrod@cwlaw.com; rfunk@cwlaw.com; thill@rhodesokla.com; Jones, Tim; Bond, Michael R.; rsanders@youngwilliams.com; Terry@thewestlawfirm.com; jtucker@rhodesokla.com; vmorgan@cwlaw.com; lphillips@cwlaw.com; Sperrazza, Quynh C.; lwhite@rhodesokla.com; gbarber@rhodesokla.com; Lawrence Zeringue; pthompson@bassettlawfirm.com; Dolan, Christopher H.; lrockwood@faegre.com; Jones, Bruce; Nicole Longwell; Jinger Waller; kcarney@faegre.com; jwisley@cwlaw.com; kkobbeman@cwlaw.com; Craig A. Mirkes; ljsoutherland@rhodesokla.com; Patrick Ryan; Philip Hixon; kkleee@faegre.com; wbassett@bassettlawfirm.com; Sherry Bartley
Subject: RE: Oklahoma v. Tyson -

Robert -

The State does not intend to withdraw Appendix C to Dr. Engel's report, and maintains its position that it is not required to provide you with the additional materials you are requesting for Dr. Cox.

However, while reserving its rights on this issue, the State is willing to work with Dr. Cox to gather his CV, billing rate, list of publications from the last 10 years, list of litigation testimony for the last 4 years, and materials considered by Cox in his work on Appendix C that have not already been produced. We will provide you with a copy of these materials once they have been gathered.

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-----Original Message-----

From: George, Robert [mailto:Robert.George@tyson.com]
Sent: Thursday, August 21, 2008 2:32 PM
To: Xidis, Claire; David Page; Baker, Fred; Ward, Liza; David Riggs; Richard Garren; Bob Nance; Kelly Burch; Daniel Lennington; Trevor.Hammons@oag.ok.gov; Louis Bullock; Bob Blakemore
Cc: Scott McDaniel; Jorgensen, Jay T.; Burns, Bryan; Mark_Quayle@cargill.com; James Graves; jgriffin@lathropgage.com; Gary Weeks; rredemann@pmrlaw.net; vbronson@cwlaw.com; bfreeman@cwlaw.com; dehrich@faegre.com; jelrod@cwlaw.com; rfunk@cwlaw.com; thill@rhodesokla.com; Jones, Tim; Bond, Michael R.; rsanders@youngwilliams.com; Terry@thewestlawfirm.com; jtucker@rhodesokla.com; vmorgan@cwlaw.com; lphillips@cwlaw.com; Sperrazza, Quynh C.; lwhite@rhodesokla.com; gbarber@rhodesokla.com; Lawrence Zeringue; pthompson@bassettlawfirm.com; Dolan, Christopher H.; lrockwood@faegre.com; Jones, Bruce; Nicole Longwell; Jinger Waller; kcarney@faegre.com; jwisley@cwlaw.com; kkobbeman@cwlaw.com; Craig A. Mirkes; ljsoutherland@rhodesokla.com; Patrick Ryan; Philip Hixon; kkleee@faegre.com; wbassett@bassettlawfirm.com; Sherry Bartley
Subject: RE: Oklahoma v. Tyson -

Claire,

I am aware of the letter and the data produced under that letter but I believe I am entitled to all materials considered by Dr. Cox, all correspondence and information

regarding his compensation, qualifications, publications and prior litigation experience. If the State does not want Dr. Cox to be treated as a Rule 26(a)(2) expert subject to that rule's disclosure requirements then it should withdraw the opinions set forth in Appendix C of Engel's report which was drafted by Dr. Cox (and not Dr. Engel) and which clearly constitutes an expert report by Dr. Cox pursuant to Rule 26(a)(2). I frankly fail to see how the State can take the position that Defendants are entitled to the opinions and conclusions of Dr. Cox, who undoubtedly you view as an expert (testifying or not), without full Rule 26(a)(2) disclosures by Dr. Cox.

Please advise by close of business tomorrow whether the State will withdraw Dr. Cox's report. If the State will not, please advise whether you are authorized to accept service of a subpoena duces tecum upon Dr. Cox. This subpoena will command production of the materials that should have been disclosed under Rule 26(a)(2) and will be issued without waiver of defendants' position that Dr. Cox's report should be stricken for noncompliance with Rule 26(a)(2).

I strongly encourage the State to reconsider its position on Dr. Cox so that we can avoid having to put this matter before the Court.

Robert W. George
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2210 West Oaklawn Drive
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-----Original Message-----

From: Xidis, Claire [mailto:cxidis@motleyrice.com]
Sent: Thursday, August 21, 2008 12:17 PM
To: George, Robert; David Page; Baker, Fred; Ward, Liza; David Riggs; Richard Garren; Bob Nance; Kelly Burch; Daniel Lennington; Trevor.Hammons@oag.ok.gov; Louis Bullock; Bob Blakemore
Cc: Scott McDaniel; Jorgensen, Jay T.; Burns, Bryan; Mark_Quayle@cargill.com; James Graves; jgriffin@lathropgpage.com; Gary Weeks; rredemann@pmrlaw.net; vbronson@cwlaw.com; bfreeman@cwlaw.com; dehrich@faegre.com; jelrod@cwlaw.com; rfunk@cwlaw.com; thill@rhodesokla.com; Jones, Tim; Bond, Michael R.; rsanders@youngwilliams.com; Terry@thewestlawfirm.com; jtucker@rhodesokla.com; vmorgan@cwlaw.com; lphillips@cwlaw.com; Sperrazza, Quynh C.; lwhite@rhodesokla.com; gbarber@rhodesokla.com; Lawrence Zeringue; pthompson@bassettlawfirm.com; Dolan, Christopher H.; lrockwood@faegre.com; Jones, Bruce; Nicole Longwell; Jinger Waller; kcarney@faegre.com; jwisley@cwlaw.com; kkobbeman@cwlaw.com; Craig A.
Mirkes; ljsoutherland@rhodesokla.com; Patrick Ryan; Philip Hixon; kkleee@faegre.com; wbassett@bassettlawfirm.com; Sherry Bartley
Subject: RE: Oklahoma v. Tyson -

Robert,

For your reference, I have attached a letter I sent to Leslie Southerland on August 6, 2008 in response to her request for the underlying data for Appendix C to Dr. Engel's report. This letter identifies the files that contain the underlying data used to create Appendix C, and we produced three files with this letter. We have not and do not intend to produce Dr. Cox's emails, correspondence, or other Rule 26(a)(2) materials in this case because the State does not intend to call Dr. Cox as a testifying expert witness.

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-----Original Message-----

From: George, Robert [mailto:Robert.George@tyson.com]

Sent: Tuesday, August 19, 2008 9:44 AM

To: Xidis, Claire; David Page

Cc: Scott McDaniel; Jorgensen, Jay T.; Burns, Bryan; Mark_Quayle@cargill.com; James Graves; jgriffin@lathropgage.com; Gary Weeks; rredemann@pmrlaw.net; vbronson@cwlaw.com; bfreeman@cwlaw.com; dehrich@faegre.com; jelrod@cwlaw.com; rfunk@cwlaw.com; thill@rhodesokla.com; Jones, Tim; Bond, Michael R.; rsanders@youngwilliams.com; Terry@thewestlawfirm.com; jtucker@rhodesokla.com; vmorgan@cwlaw.com; lphillips@cwlaw.com; Sperrazza, Quynh C.; lwhite@rhodesokla.com; gbarber@rhodesokla.com; Lawrence Zeringue; pthompson@bassetlawfirm.com; Dolan, Christopher H.; lrockwood@faegre.com; Jones, Bruce; Nicole Longwell; Jinger Waller; kcarney@faegre.com; jwisley@cwlaw.com; kkobbeman@cwlaw.com; Craig A.

Mirkes; ljsoutherland@rhodesokla.com; Patrick Ryan; Philip Hixon; kkleee@faegre.com; wbassett@bassetlawfirm.com; Sherry Bartley

Subject: RE: Oklahoma v. Tyson -

Claire,

I'm disappointed with the position taken by Plaintiffs. In any event, can I take your e mail below as confirmation that Plaintiffs have not produced the data and file materials reviewed by Mr. Cox in connection with his work and the preparation of his portion of Engel's expert report and/or all work papers, charts, maps, graphs, correspondence or e mails generated or received by Mr. Cox in connection with that work?

If all of Mr. Cox's files and materials have been produced as part of Engel's considered materials, please direct me to those materials and confirm that it is a complete production.

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-----Original Message-----

From: Xidis, Claire [mailto:cxidis@motleyrice.com]
Sent: Monday, August 18, 2008 9:32 AM
To: George, Robert
Cc: David Page
Subject: RE: Oklahoma v. Tyson -

Robert-

At this time, the State does not plan to call Tim Cox as a testifying expert witness at trial. Thus, he was not disclosed as a testifying expert, and we did not provide a Rule 26(a)(2) expert disclosure and corresponding materials for him. Tim Cox's work was done under the supervision of Dr. Engel, and if you have questions about it, you will have an opportunity to make your inquiries during Dr. Engel's deposition.

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-----Original Message-----

From: George, Robert [mailto:Robert.George@tyson.com]
Sent: Thursday, August 14, 2008 4:32 PM
To: David Page; Xidis, Claire
Subject: Oklahoma v. Tyson -

<<Pages from doc20080522182104.pdf>> David,

It has been brought to my attention that Appendix C to Dr. Engel's report is essentially a

separate expert report prepared by a previously undisclosed expert, Dr. Tim Cox. See pg. C-1 of Appendix C to Engel Report attached (Dr. Cox prepared the text contained in this appendix).

Unless I have missed something, the disclosures required by Rule 26(a)(2) have not been made with respect to Dr. Cox and his work in this case. I can't find: (i) a CV or statement of qualifications for Dr. Cox, (ii) his workpapers, file materials and data, (iii) his e mails and electronic files, (iv) a list of all other cases in which he has testified in the last five years, or (v) billing records or a statement of his compensation. Please either point me to these materials within the State's production of expert materials or provide an explanation as to why these materials have not been produced.

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The message is ready to be sent with the following file or link attachments:

Pages from doc20080522182104.pdf

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